IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.2100 OF 2006

Smt.Shubhangi Anant Kadam & Anr. ...Petitioners.
Vs.
The Mumbai Building Repairs and
Reconstruction Board & Ors. ...Respondents.

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Ms.Jasmin Tavaria with Mr. D.A. Barot for the Petitioners.
Mr. G.W. Mattos, AGP for Respondent Nos.1 and 2.
Mr.Vatsal K. Merchant i/b. Kishore Thakordas & Co. for Respondent No.3.

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CORAM : DR.D.Y.CHANDRACHUD, J.

August 11, 2006.

P.C.

This Petition was on board yesterday and having regard to the nature of the grievance, this Court was of the view that an effort should be made to resolve the dispute amicably between the parties. Both the Petitioners are now present before the Court with Counsel and the Court has been informed that they have agreed to the proposed terms accepted by the Third Respondent. Counsel appearing on behalf of the Petitioners and the Third Respondent have stated before the Court that the following order may be passed with the consent of their respective clients. Counsel

appearing on behalf of the Petitioners states that the purport of the order has been explained by her personally to them. No further point is raised. This petition is disposed of by consent with the following directions and, on the request of Counsel, without recording any further reasons since the dispute stands settled:

-(1) The Third Respondent agrees and undertakes through its partner, Bharat Jain, who is present before the Court that the following order may be passed :

-(i) In the event that the FSI as presently sanctioned is 2, the Petitioners would each be entitled to permanent alternate accommodation in the reconstructed building, of 180 sq.ft. while if the sanctioned FSI of 2.5 is allowed, the Petitioners would each be entitled to 225 sq.ft. in the reconstructed building;

-(ii) Unless all the tenants, or as the case may be, the eligible legal heirs of the tenants of the existing structures are rehabilitated in the reconstructed building and are handed over possession of their respective tenements, no third party would be placed in possession

as part of the free sale component;

-(iii) In order to facilitate the Petitioners in obtaining rental accommodation of their choice, the Third Respondent shall pay to each of the Petitioners, monthly compensation quantified at Rs.2,000/- commencing from August 2006 until vacant possession of the premises in the reconstructed building is made available to them.

-(2) The aforesaid undertakings are accepted. In view of the undertakings which are tendered before the Court on behalf of the Third Respondent, Counsel appearing on behalf of the Petitioners states on instructions that the Petitioners will hand over vacant possession of the premises in their possession on or before 20th August 2006. The statement made on behalf of the Petitioners is accepted. In the event that the Petitioners do not vacate the premises on or before 20th August 2006 as agreed, it would be open to the First Respondent to enforce the notice dated 4th August 2006.

-(3) Before concluding the matter, it would be appropriate for

this Court to record that transit accommodation has been provided by the First Respondent to the Petitioners at Pratiksha Nagar, Sion. However, the payment of monthly compensation in terms noted above has been agreed upon between the Petitioners and the Third Respondent, since it was stated before the Court that the First Petitioner has a handicapped child who needs to be taken care of and the Second Petitioner has school and college going children and they will prefer to themselves obtain suitable accommodation in the vicinity. Hence, it was stated that they would accept monthly compensation instead of the transit accommodation at Pratiksha Nagar. It is clarified that notwithstanding the aforesaid order, it would be open to the Petitioners, if they so desire, to accept the transit accommodation which is made available at Pratiksha Nagar in which event, they would forgo the aforesaid monthly compensation.

-(4) It is clarified that in the event that the construction is not completed on or before 31st December 2008, it would be open to the Petitioners to apply to the appropriate Court for enhancement of compensation.

-(5) The Counsel for the Petitioners states that no further extension shall be sought for time to vacate the premises.

The petition is accordingly disposed of since no other point is raised.

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